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Chairman:	Mr. KUKAN	(Slovakia)
later:	Mr. VAN DER HEIJDEN (Vice-Chairman)	(Netherlands)
later:	Mr. KUKAN	(Slovakia)

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The meeting was called to order at 10.25 a.m.

AGENDA ITEM 114: HUMAN RIGHTS QUESTIONS

(a) IMPLEMENTATION OF HUMAN RIGHTS INSTRUMENTS (A/48/40, A/48/44 and Add.1, A/48/280, A/48/471, A/48/507, A/48/508, A/48/520, A/48/556, A/48/560)

Introductory statement and general discussion

1. Mr. HOUSHMAND (Director, Implementation of International Instruments and Procedures Branch, Centre for Human Rights) said the Declaration and Programme of Action adopted by the World Conference on Human Rights set as one of its most important objectives in the years to come the universal ratification of the basic international human rights instruments. Currently, although the number of States which had accepted certain human rights treaties was much higher than expected, the number of States which had accepted other treaties was still not satisfactory. In total, however, there had been a constant increase, year after year, in the number of States which had acceded to the United Nations human rights treaties. Currently, 172 States had become parties to one or more of the seven principal human rights instruments.

2. As for the status of the two Covenants on Human Rights and the Optional Protocols to the International Covenant on Civil and Political Rights, which was reviewed in the report of the Secretary-General (A/48/507), it might be noted that as of 1 November 1993, 126 States had ratified or acceded to the International Covenant on Economic, Social, and Cultural Rights, that 124 States had ratified or acceded to the International Covenant on Civil and Political Rights, that 74 States had ratified or acceded to the First Optional Protocol to the International Covenant on Civil and Political Rights and that 20 States had ratified or acceded to the Second Optional Protocol to the same Covenant. It was also interesting to note that since 1992, eight additional States had become parties to the two Covenants and to the First Optional Protocol to the International Covenant on Civil and Political Rights. That constituted the highest annual rate of accession to the Covenants and Protocols in the past decade.

3. He then reviewed the work of the monitoring bodies of four of the basic human rights instruments: the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee against Torture and the Committee on the Rights of the Child.

4. During its forty-sixth, forty-seventh and forty-eighth sessions, the Human Rights Committee had considered 14 reports submitted to it by States parties to the Covenants on Human Rights and the special reports on events affecting human rights in respect of persons coming under the jurisdiction of the Governments of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro). Furthermore, the Human Rights Committee had taken a significant step forward with regard to its method of reviewing the reports of States parties by considering that all the people within the territory of a former State party to the International Covenant on Civil and Political Rights remained entitled to the protection and guarantees of that

(Mr. Houshmand)

Covenant, which meant that new States emerging from former States parties remained bound by the obligations flowing from the Covenant as from the date of their independence. Additionally, the Committee had adopted final views on 21 cases submitted to it under the Optional Protocol and considered another 16 cases which it had declared inadmissible.

5. During the three aforementioned sessions, the Committee had also adopted a general comment on article 18 of the International Covenant on Civil and Political Rights concerning the right to freedom of thought, conscience and religion; it had made substantive progress in its consideration of a draft general comment regarding the right to political participation, had begun the elaboration of a draft general comment relating to the rights of persons belonging to ethnic, religious and linguistic minorities under article 27 of the Covenant and had dealt with issues relating to reservations made by States parties to the Covenant and its Optional Protocol.

6. In addition to its seventh annual session, held in November-December 1992, the Committee on Economic, Social and Cultural Rights held an extraordinary session, on an exceptional basis, in May 1993, to deal with the backlog in consideration of the reports of States parties to the International Covenant on Economic, Social and Cultural Rights. It had continued to formulate concluding observations on the performance of States parties in implementing the Covenant during consideration of their reports, and during its two most recent sessions had continued elaborating general comments with respect to the application of economic, social and cultural rights representing emerging jurisprudence with respect to that question. It had then held an exchange of views on the question of drafting an optional protocol to the Covenant which would permit the submission of communications pertaining to some or all of the rights recognized in that instrument. The Committee considered that the draft protocol would improve implementation of the Covenant, strengthen the dialogue with States parties and make it possible to focus public attention more closely on economic, social and cultural rights. The Committee's views on that issue could be found in the report on its seventh session. The World Conference on Human Rights had been of the same opinion as the Committee, since it had encouraged the Commission on Human Rights to continue the examination of possible optional protocols, in cooperation with the Committee on Economic, Social and Cultural Rights.

7. At its ninth and tenth sessions, held at Geneva in November 1992 and April 1993 respectively, the Committee against Torture had considered the reports of 16 States parties on the application of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It had also continued its work relating to confidential inquiries under article 20 of the Convention and considered four communications under article 22 of the Convention. In addition, it had considered other questions such as strengthening its cooperation and coordination of its activity with the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture, the possible establishment of an optional protocol to the Convention and the Committee's contribution to, and participation in, the World Conference on Human Rights.

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8. In accordance with article 17 of the Convention against Torture, the fourth meeting of States parties to the Convention would be held on 24 November 1993 at Geneva. At that meeting, the States parties would elect five members of the Committee to replace those whose terms were due to expire on 31 December 1993 and would consider matters relating to their financial responsibilities under the Convention. In that connection, he wished to recall that the amendments to the Convention concerning its financing would enter into force when they were adopted by two thirds of the States which had been parties to the Convention when the amendments were adopted, in other words by 45 out of the 68 States parties. As of 20 October 1993, however, only seven States parties had notified the Secretary-General that they had accepted the amendments.

9. The Committee on the Rights of the Child, which was responsible for ensuring effective application of the Convention on the Rights of the Child, had held its third and fourth sessions in January 1993 and September-October 1993, respectively, at Geneva. At those two sessions, each preceded by a pre-sessional working group where a preliminary review of reports submitted by States parties had been conducted, the Committee had considered reports submitted by 11 States parties.

10. At its third session, the Committee had adopted a number of measures as a follow-up to its day of general discussion devoted to the topic of "children in armed conflicts". It had recommended, inter alia, that the General Assembly should request the Secretary-General to undertake a study on ways and means of improving the protection of children from the adverse effects of armed conflicts. The recommendation had been endorsed in the Vienna Declaration and Programme of Action (A/48/280, para. 50).

11. At its fourth session, the Committee had considered ways to avoid building up a backlog in the consideration of the reports of States parties. In that connection, it had decided to convene a special session in 1994, to be preceded by a meeting of its pre-sessional working group. In addition, responding to a recommendation addressed to it in the Vienna Declaration and Programme of Action, the Committee had requested the Secretary-General to transmit to the Commission on Human Rights, at its next session, the preliminary draft of an optional protocol, elaborated by the Committee, on the question of raising the minimum age of recruitment into armed forces. At the same session, the Committee had also devoted one day to a general discussion on the economic exploitation of children. In addition, the Committee, in collaboration with UNICEF, had organized an informal regional meeting at Bangkok in May 1993 to promote greater awareness of the principles and provisions of the Convention on the Rights of the Child and to acquire a better understanding of problems affecting the rights of children at the regional level. Another regional meeting of that type had been scheduled for 1994, in Africa.

12. He recalled that the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which was the subject of a report of the Secretary-General (A/48/471), would enter into force three months after the deposit with the Secretary-General of the twentieth instrument of ratification or accession. Currently, only two States, namely

Egypt and Morocco, had ratified or acceded to the Convention, and two other States, namely Chile and Mexico, had signed but not yet ratified it.

13. Turning to the question of the effective implementation of international instruments on human rights, he drew attention to the following documents: (a) a report of the Secretary-General examining the conclusions and recommendations of the fourth meeting of persons chairing the human rights treaty bodies (A/48/508); (b) a report of the Secretary-General on financing and adequate staff resources for the operations of the human rights treaty bodies (A/48/560); and (c) a note by the Secretary-General transmitting the interim report on the updated study by the independent expert on possible long-term approaches to enhancing the effective operation of existing bodies established under United Nations instruments on human rights (A/48/556).

14. The World Conference on Human Rights had welcomed the progress made in the codification of human rights standards and had strongly recommended that a concerted effort be made to encourage and facilitate accession to human rights instruments, with a view to achieving their universal acceptance. In recent years, more and more States had acceded to those instruments, but many had not yet become parties, including a number of successor States of former States which had been parties to those instruments.

15. Accession to international human rights treaties was, of course, only the first step in the implementation of the rules and standards contained in those instruments, which was why the treaty bodies responsible for ensuring their effective implementation were so crucial. The treaty bodies had been increasingly coordinating their activities and the system they formed had become a cornerstone of the United Nations human rights programme. Therefore, it was imperative that the treaty bodies received the support necessary to monitor and facilitate the implementation, by all States parties, of the standards of the treaties for which they were responsible.

16. The chairpersons or representatives of the international human rights treaty bodies had participated actively in the preparations for the World Conference on Human Rights and had adopted a declaration, the text of which was contained in document A/CONF.157/TBB/4. Their biennial meetings had become among the most dynamic and innovative forums to consider human rights, as was demonstrated by the fact that some of the conclusions adopted at their fourth meeting, held in October 1992, had already been echoed in resolutions of the General Assembly and of the Commission on Human Rights.

17. Lastly, he drew attention to the interim report on the updated study of the independent expert on possible long-term approaches to enhancing the effective operation of bodies established under United Nations instruments on human rights, in so far as the conclusions and recommendations contained in that report represented a valuable contribution to the search for creative and effective solutions to many of the challenges facing the United Nations treaty bodies and the United Nations human rights programme as a whole.

18. Mr. VAN DE CRAEN (Belgium), speaking on behalf of the European Union, noted that all of the participants in the World Conference on Human Rights held at Vienna in 1993 had solemnly reaffirmed that the universal nature of human rights was beyond question and that the promotion and protection of those rights and of fundamental freedoms were a priority objective of the United Nations.

19. While the States members of the European Union welcomed the increasing number of States parties to human rights covenants and treaties, they regretted that some States Members of the United Nations had not yet acceded to those instruments, as they believed that the noble objective of universality would not be reached unless all countries acceded fully to the principles and standards contained in them. Consequently, the European Union attached particular importance to opening a dialogue, as recommended by the World Conference on Human Rights, between States and the Secretary-General which would provide an opportunity to identify and overcome the obstacles preventing the accession of States Members of the United Nations to international covenants, conventions and treaties.

20. With regard to the lodging of reservations to international instruments, the European Union appealed to all States to avoid, as far as possible, resorting to that practice. It encouraged States to consider limiting the extent of any reservations they lodged, to formulate them as precisely and narrowly as possible and to ensure that no reservation was incompatible with the object and purpose of the relevant treaty. In addition, it asked that each State review any reservations it might have lodged at the time of its accession with a view to withdrawing them. It believed that the human rights treaty bodies had a role to play in that regard and that they should, when considering the report of a State party, initiate a dialogue with that State to encourage it to withdraw progressively any reservations it had lodged.

21. Education and information contributed significantly to the promotion and protection of the universality of human rights, as the World Conference on Human Rights had solemnly reaffirmed. The treaty monitoring bodies could be useful in that respect, since they had the opportunity, within the framework of their dialogue with States, to review the action of States, to strive to convince them to give the subject of the human rights its rightful place in educational programmes and to encourage them to publish and distribute, at the national level, the reports they submitted to the treaty bodies on a periodic basis.

22. In recent years, the United Nations had adopted three new human rights instruments: the Second Optional Protocol to the International Covenant on Civil and Political Rights, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Convention on the Rights of the Child. In that regard, the European Union believed that the proliferation of human rights standards could have a negative effect on the effectiveness of existing instruments by weakening the universal principles contained in them. Accordingly, it believed there was a need to limit the number of new instruments in fields where there was already a widespread consensus in the international community and to keep in mind the guidelines contained in General Assembly resolution 41/120 relating to the setting of international standards when drafting new instruments.

(Mr. Van De Craen, Belgium)

23. As the World Conference had proclaimed, the promotion and protection of human rights and fundamental freedoms was essentially the responsibility of Governments. However, the European Union reaffirmed the great importance it attached to the proper functioning of the treaty monitoring bodies - the chosen partners of States in the sometimes difficult and complex but indispensable task of honouring commitments undertaken - and encouraged States to cooperate fully with them. Above all, States must make an effort to draft their reports correctly and to submit them within the prescribed deadlines. The total number of reports overdue for the different treaties was now approximately 1,000. In view of that regrettable situation, the European Union appealed to States parties to fulfil their treaty obligations and report regularly on their compliance.

24. States must also do their utmost to prepare full reports and provide detailed answers to the experts' questions. In that connection, the European Union encouraged countries to enlist the services of the monitoring bodies and the Centre for Human Rights, whose purpose was to provide assistance and advice.

25. Satisfactory cooperation between the monitoring bodies and States also required adequate financial resources for the bodies in question. The European Union therefore encouraged States parties to inform the Secretariat promptly as to whether they accepted the idea that the bodies responsible for monitoring the two conventions to which he had referred earlier should be financed from the Organization's regular budget, so as to ensure a reliable source of funding. However, a sound financial situation would not in itself be enough to guarantee the effective operation of such bodies. As Mr. Alston had indicated in his interim report (A/CONF.157/PC.62/Add.11/Rev.1), the entire United Nations human rights regime must be reviewed and reformed. The European Union encouraged Mr. Alston to complete his study and submit it to the Commission on Human Rights at its fiftieth session. In the meantime, the European Union requested the Secretary-General to ensure that the Centre for Human Rights gave the treaty bodies all the necessary assistance, which of course meant that the Centre must also be provided with the necessary human and financial resources.

26. The European Union welcomed the growing number of countries acceding to the first Optional Protocol to the International Covenant on Civil and Political Rights, but remained concerned at the backlog of communications concerning civil and political rights submitted by individuals (141 cases pending). It therefore believed that the Human Rights Committee should be authorized to hold an extended session in 1994, as requested by the Human Rights Committee, and that secretariat servicing should be strengthened accordingly. At the same time, it called on the Human Rights Committee to continue adjusting its working methods so as to be able to respond to the increasing number of communications it received. The European Union considered it most regrettable that the Office of Conference Services would no longer be able to provide summary record coverage of Human Rights Committee meetings. As to the follow-up which States should be giving to Human Rights Committee recommendations - a key element in implementing the International Covenant on Civil and Political Rights - the European Union looked forward to hearing the Human Rights Committee's proposals in that connection.

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27. With regard to children in armed conflicts, the European Union supported the request by the Committee on the Rights of the Child that the Secretary-General should take the necessary steps for conducting a study on ways and means of improving the protection of such children. It urged States, United Nations bodies and organizations, the relevant non-governmental organizations and the International Committee of the Red Cross to provide input to the study.

28. The United Nations human rights regime was the result of 45 years of tireless efforts by the international community. It was the duty of all concerned to constantly improve performance in the area by ensuring better coordination of activities and appropriate conditions for the more effective promotion and protection of human rights, better dissemination of information and more suitable education on the subject. Such tasks might be entrusted to the future High Commissioner for Human Rights, a proposal which the European Union intended to take up in more detail at a later date.

29. Mr. van der Heijden (Netherlands), Vice-Chairman, took the Chair.

30. Mr. LAVIÑA (Philippines) said that his country had contributed to the drafting of the various human rights instruments, that it had signed and ratified most of them and incorporated them in its Constitution, and that on the whole it had assiduously complied with the obligations undertaken in that connection.

31. However, the Philippines was not content with the mere incorporation of universal human rights principles in its national legislation. The country was governed in conformity with the imperatives of universality, guarantees and democratization, as borne out by the "Bill of Rights", written into the Constitution, which guaranteed equal rights for all persons irrespective of sex, language, religion or ethnic origin and under the protection of the rule of law. Likewise, an independent Commission on Human Rights and a separate judicial system, as well as efforts to build democracy enabling all Filipinos to participate more actively in public life since 1992, proved that those principles were upheld.

32. On the basis of national experience, the Philippines had contributed to the promotion of human rights at bilateral and regional levels and in the competent bodies of the United Nations. In that connection, the Philippine delegation called for wider dissemination, particularly at universities and other teaching establishments, of the work A Compilation of International Instruments published by the Centre for Human Rights, so as to ensure that people everywhere would share the same vision of the struggle for the protection of human rights before the fiftieth anniversary of the United Nations. However, as the Tehran and Vienna Conferences had shown, the level of ratification and implementation of human rights instruments left much to be desired; it would therefore be fitting to remedy the situation on such a historic occasion.

33. After endorsing in general the recommendations made by Belgium on behalf of the European Union, he said that he wished to focus briefly on three international human rights instruments. First, he mentioned the Declaration on

(Mr. Laviña, Philippines)

the Right to Development, which remained valid for the developing countries still sorely afflicted by poverty and awaiting a new international economic order. Against that background, the leaders of five of the most developed nations (Japan, the United States, Canada, Australia and New Zealand) would shortly be meeting in Seattle with representatives from the Association of South-East Asian Nations (ASEAN) and other democracies in the region to give impetus to the Asia-Pacific Economic Cooperation Council.

34. Second, the Philippine delegation appealed to all countries which had admitted Filipino migrant workers into their territories to ratify without delay the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in order to safeguard the dignity of human beings who, through their labour, technical skills and professional talents, contributed to national development and progress.

35. His delegation earnestly hoped that the Convention would receive the 20 signatures necessary for its entry into force and appealed to fellow delegations to implement General Assembly resolution 47/96 on violence against migrant women workers, adopted by consensus in 1992. That resolution had been sponsored by the Philippines and 13 other countries, demonstrating international solidarity with Philippine workers in particular and all migrant workers in general. He hoped that the current version of that resolution would similarly be adopted by consensus.

36. Three other instruments merited immediate implementation: the Declaration on the Rights of the Child (1959), the Convention on the Rights of the Child (1989) and the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally (1986). As the world approached the new millennium, it was imperative that children should be accorded favourable living conditions and generous support, particularly those who were the victims of natural disasters, civil strife and conflicts. To protect the children of today was to foster new generations committed to peace-building and peace-keeping.

37. Archbishop TAURAN (Observer for the Holy See), recalling the recent World Conference on Human Rights, said it was regrettable that human rights and fundamental freedoms remained in a precarious state. Faced with the evidence of violence, war, poverty, unemployment, cultural underdevelopment, disturbing genetic manipulations and denial of the right to be born, the Vienna Conference had declared that the fundamental rights of the human person were indivisible and universal and that, since they were inscribed in human nature, they were not the mere expression of a culture and should be respected by all.

38. In his first message to the United Nations in 1978, Pope John Paul II had commented on the seemingly growing divergence between the meaningful declarations of the United Nations and the sometimes massive increase in human rights violations. The Holy See wished to reaffirm that respect for the rights of the human person, as laid down in the Universal Declaration of Human Rights of 1948 and the Proclamation of Tehran of 1968, committed the international

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community to ensuring for each human being the requisites for his dignity and for spiritual dimension, since human rights and fundamental freedoms were not granted by any person and preceded the positive law which gave them expression. Such organizations as the United Nations should therefore promote the expression of a common political will with a view to ensuring a more unified world and a truly human life.

39. Freedom of religion was included among the fundamental rights. While some progress had been made, particularly in Central and Eastern Europe, largely due to the thoughtful work carried out in the United Nations and the Conference on Security and Cooperation in Europe (CSCE), he noted with regret that in too many regions believers were subjected to serious discrimination. Thus, in certain Islamic countries, Christians had no places of worship where they could gather. Elsewhere, religious leaders were unable to express opinions on social problems without being suspected of betraying the national interest and increasingly restrictive laws and national dispositions were being promulgated.

40. For that reason, the Holy See sought the full assurance of individual and collective rights for Catholics as well as all other communities of believers, enabling them to participate in public dialogue and in national affairs with full recognition of their faith. At the same time efforts must be made to avoid placing the power of the State at the service of a single religious community and to oppose the view of religion as destructive of the national sense of community. The first deviation endangered social and civic peace within and between countries while the second ominously denied the religious dimension of man.

41. Failure to grant believers their proper place in national life carried the risk of the eruption of nationalism and tribal revendication, excesses of national sentiment, the conviction of the superiority of one race over another, the reign of arbitrariness and the negation of rights.

42. The establishment of structures for dialogue should take precedence in that area, so that collaboration and solidarity could prevail and a solution be found to the problems of national minorities. While in theory each people should be able to organize itself into an independent State, where that proved impossible, federal and confederal forms offered an alternative which safeguarded the unity of the State while granting national communities the faculty to preserve their ethnic, cultural and religious identity. The example of the former Yugoslavia, Burundi, Somalia, Angola, Sri Lanka and several countries of the Caucasus served to recall to humankind its obligation to seek solidarity. To its credit, the international community had scored a number of successes, such as progress achieved in Cambodia, the abolition of apartheid in South Africa and the current talks between the Israelis and the Palestinians.

43. Considerable legal work was necessary to resolve such issues as the definition of the concept of a "national minority", the forced displacements of populations and the arms trade. Progress had been made in that area in Europe with the establishment of a court of arbitration and with the appointment by CSCE of a High Commissioner on National Minorities, but those achievements were

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still meagre in a world which should be founded on the rights of the person, pluralism and democracy.

44. With the resurgence of ethnic conflicts and problems of nationality and frontiers, tragically repeating the history of the early twentieth century, the time had come for a renewal of conscience and for action. It was the duty of the United Nations to give signs of hope to all peoples.

45. Mr. HJELDE (Norway), speaking on behalf of the five Nordic countries, said that the World Conference on Human Rights had reaffirmed the unique position of the Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, which served as the inspiration for the establishment and implementation of the norms contained in existing international human rights instruments. By recognizing that peace and stability directly depended on the effective implementation of those norms, by drawing attention to the universal nature of fundamental rights and freedoms, by stressing the duty of States to promote and safeguard human rights regardless of their political and economic systems and by stressing the close interrelationship between human rights, democracy and development, the Vienna Declaration and its programme of action constituted a firm basis for future national and international action.

46. In that context, the progressive accession to and implementation of United Nations instruments on human rights was a matter of fundamental concern. The Nordic countries urged all countries to take appropriate measures, since, despite the progress which had been made, one third of the States Members of the United Nations had still not acceded to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and less than half had accepted the procedure for individual complaints set forth in the First Optional Protocol.

47. The number of States parties to a convention or agreement was not, however, any guarantee of respect for those instruments. The Nordic countries noted with concern that, when ratifying such instruments, a large number of States were entering extensive reservations which were incompatible with the object and purpose of the conventions in question or contrary to international law. Sometimes they even called into question the validity of the ratification itself. The Nordic countries therefore urged the States concerned to follow the recommendations of the Vienna Conference and to consider limiting the extent of their reservations to international instruments or at least to formulate them as precisely and narrowly as possible, in accordance with international treaty law.

48. The Nordic countries attached great importance to the abolition of the death penalty, which constituted an affront to the dignity of man. It was therefore cause for great concern that so few countries had ratified the Second Optional Protocol, aiming at the abolition of the death penalty.

49. Turning to the advancement of women, he said that the Nordic countries were in favour of the full incorporation of the question of the fundamental rights of women in United Nations human rights activities, supported the appointment of a

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special rapporteur on violence against women and endorsed the goal set in the Vienna Declaration of universal ratification of the Convention on the Elimination of All Forms of Discrimination against Women by the year 2000.

50. The Nordic countries echoed the appeal of the Conference for the ratification of the Convention on the Rights of the Child by all States by 1995. They supported the national and international efforts to be undertaken for the defence and protection of children, especially the most vulnerable (street children, victims of economic or sexual exploitation, children in armed conflicts).

51. The World Conference on Human Rights had urged all States to put an end to the practice of torture and to cooperate fully with the Special Rapporteur on the question of torture in the fulfilment of his mandate. The Nordic countries supported the recommendations of the Conference concerning the effective implementation of the Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. Stressing the need for concrete action to ensure the rehabilitation of the victims of torture, they called for additional contributions to the United Nations Voluntary Fund for Victims of Torture.

52. Similarly, they hoped for the early implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, who had the right to participate effectively in all areas of public life.

53. It was the responsibility of Governments to strengthen the national structures which played a role in safeguarding human rights. It was essential that lawyers, officials and other persons concerned should have access to the texts of the conventions in the original version or in translation and to judgements and opinions in the field of human rights. Efforts should also be made with regard to teaching and the dissemination of information.

54. With regard to the monitoring of the implementation of human rights, the Nordic countries urged their partners to cooperate closely with the experts concerned; they approved of the appointment of a High Commissioner for Human Rights. They recommended that the resources allocated to the Centre for Human Rights should be increased (a matter on which the Fifth Committee should work in close cooperation with the Third Committee) and were prepared to play an active role in revitalizing United Nations activities in the field of human rights.

55. Mr. TORELLA di ROMAGNANO (Italy) endorsed the observations made by the representative of Belgium on behalf of the European Union, and said that consideration of the item concerning the implementation of international instruments provided an opportunity to establish a more effective system enabling the United Nations to play a strengthened role as guarantor of human rights and that increased efforts should be made along that line, in the light of the results of the World Conference on Human Rights.

(Mr. Torella di Romagnano, Italy)

56. In that perspective, it was necessary to ensure that international rules were legally enforced. Of course, given the wide range of international human rights instruments at both the world-wide and regional levels, different monitoring methods were envisaged (periodic reporting by States parties, the appointment of rapporteurs on given countries or subjects, the right of petition, etc.). However, at the world-wide level, a real and effective mechanism had still to be established to enforce respect for the rights and duties of the States as well as of individuals, it being understood that that action would be of a strictly legal nature and not political or sociological.

57. The rights and duties created by the rules of international law, especially in the field of human rights, were supposed to be applied within the framework of the legal system to which those international instruments belonged. Once ratified by a State, the rules of international law were incorporated into the domestic legal system and applied by national courts as if they were of national original.

58. That created a number of problems, such as that of impartiality. As most rules relating to human rights governed the relationship between the individual and organs of the State, especially the judiciary, it might appear odd that the responsibility for monitoring the application of those rules should rest on States parties whose conduct was not consistent with the rules. Among other arguments against the enforcement of international instruments by national jurisdictions, one could also refer to the problem of interpretation of the rules, which should have the same meaning for all States parties but would lose their universality if the judges of each country interpreted them and applied them in their own way.

59. However, there were no international judiciary bodies or mechanisms in the field of human rights, except the International Court of Justice at The Hague. Even the proposed war crimes tribunal did not cover human rights as such. The only examples of effective mechanisms were at the regional level, within the framework of the Council of Europe. Under the European Convention on Human Rights, claims could be made to the European Commission of Human Rights and subsequently to the European Court of Human Rights.

60. As his delegation had made clear in previous debates it felt that, despite all the political and technical difficulties involved, the United Nations should envisage the establishment of an international court of human rights, modelled on the European Court of Human Rights, which would deal with disputes between individuals and States, as well as those between States, provided that the defendant State had accepted the court's jurisdiction. An ad hoc instrument would have to be negotiated which would define the competence of the court and establish conditions for access to it. An ad hoc body similar to the European Commission could be responsible for determining the receivability of claims: among other things, the claimant should have exhausted all local remedies, and the case should not have been referred to any other international body.

61. Most importantly, it should be established whether such a body was really useful, not to say necessary. Firstly, it would be essential for all States

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without exception, to accept the principle of the compulsory jurisdiction of the court. Furthermore, given the universal character of fundamental rights, it was becoming increasingly necessary to grant the individual the status of a subject of international law, especially when the interests of the individual as such were at stake. It was essential that the individual should be protected by an international body which, acting on purely legal grounds, would ascertain whether a State had violated international human rights instruments and ensure the uniform interpretation and implementation whose importance had just been emphasized.

62. The establishment of an international court of human rights was widely accepted in principle, but patience and effort would be needed if, as in the case of the European Court, it was hoped to progress from a Utopian plan to the reality of a universal and impartial means of recourse.

63. In conclusion, his delegation urged States which had not yet done so, to ratify or accede to the international human rights instruments. In fact, it was no longer conceivable that a State which did not respect fundamental human rights could argue that it had not ratified the relevant international instrument, since respect for human rights had already gained the force of a universal principle.

64. Mr. Kukan (Slovakia) resumed the Chair.

65. Mr. PALLAIS (Nicaragua) said that development and democracy went hand in hand and that democracy alone could not guarantee the exercise of human rights, including economic and social rights. He noted that in many regions of the world democratization, far from helping to improve the quality of life, had led to an increase in poverty. As had been stated in the Vienna Declaration of the World Conference on Human Rights, in the document issued by the General Assembly of the Organization of American States, held in Managua in June 1993, and in the Secretary-General's report on the work of the Organization (A/48/1), democracy was inseparable from development. Respect for human rights and fundamental freedoms was the corollary of peace, which itself was made possible by democracy and sustainable development. Unfortunately, human rights violations also occurred in democratic and developed societies; the fact that they were not due to poverty or underdevelopment made them all the more serious.

66. The Government of President Chamorro, installed as a result of the first democratic elections the country had known, had inherited a particularly bad economic and social situation. Out of a concern to strengthen democratic institutions, it had launched a programme of national reconciliation, part of which involved a dialogue with all sections of society. In the same spirit it had, in August 1993, granted a limited and conditional amnesty, which did not, however, cover war crimes, crimes against humanity or offences under the ordinary law.

67. The Nicaraguan Government was pursuing its programme of disarming civilians, notably in the rural areas, and the size of the army had been reduced from over 90,000 in 1990 to below 16,000 at the time of speaking. Consideration

(Mr. Pallais, Nicaragua)

was being given to a law on the reorganization of the army, with a view to ensuring the subordination of the military hierarchy to the civil authorities. In addition, the information services had been placed under the control of the President's office. As part of the campaign to make the national police more professional, the Inter-American Institute of Human Rights and the University for Peace had given courses on human rights and humanitarian law.

68. In 1993 the Nicaraguan Government had pursued an economic adjustment and growth programme encouraging investment in order to create jobs and stimulate production, which was essential for improving the quality of life. The interim report on a programme concerned with human development, childhood and youth for the period 1991-1996 charted the social progress achieved and laid out the general principles of the Nicaraguan Government. Its respect for human rights had led the Government to undertake to help the most destitute and vulnerable sections of the population, to improve the efficiency of services in the areas of basic health, education and social services and to support productive sectors to which the workings of the market did not apply. The new aims of the President's social policy were to decentralize administrative and financial decisions; to encourage community participation; to coordinate government and local services; to target specific population groups and their needs; and to restore and reconstruct health and education infrastructures.

69. At the international level, the Nicaraguan Government welcomed the adoption by consensus of the Vienna Declaration and Programme of Action of the World Conference on Human Rights, held in June 1993. It urged States, Governments, international organizations, non-governmental organizations and the various bodies concerned with human rights to implement the document, which marked a decisive stage in the history of humankind. It also welcomed the establishment of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 and supported the proposal to establish an international criminal court for the prosecution of crimes against humanity. Lastly, it supported the idea of establishing the post of United Nations High Commissioner for Human Rights, with the task of ensuring the right to development.

AGENDA ITEM 111: ADVANCEMENT OF WOMEN (continued) (A/48/3 (chap. VII.C), A/48/38, A/48/98, A/48/124-S/25506, A/48/182, A/48/187-E/1993/76, A/48/279, A/48/301, A/48/338, A/48/354, A/48/359, A/48/413, A/48/513, A/48/546 and A/48/591; A/C.3/48/6 and A/C.3/48/10; A/C.3/48/L.5)

Introductory statement and general debate

70. Ms. SADIK (Executive Director, United Nations Population Fund (UNFPA)) introducing, at the request of the Secretary-General, his report A/48/591 concerning the United Nations International Research and Training Institute for the Advancement of Women (INSTRAW) and the United Nations Development Fund for Women (UNIFEM), said that the proposal before the Third Committee, which was based on a recommendation by the high-level panel of advisers on the restructuring of the economic and social sectors of the Organization, endorsed

(Ms. Sadik)

by the Secretary-General, had been prepared by the task force established by the Secretary-General, in response to a recommendation by the Board of Trustees of INSTRAW at its thirteenth session in February 1993, to consider the various aspects of the merger and to make recommendations. After detailing the composition of the task force, which she chaired, she said that, taking as its guiding principle the objective of enabling the United Nations system in general and INSTRAW in particular to work more effectively to improve the situation of women, it had unanimously concluded that a merger of INSTRAW and UNIFEM was desirable in order to introduce greater coherence to the policy, research and operational aspects of United Nations activity.

71. In its decision 1993/235, the Economic and Social Council had agreed that the recommendation to merge INSTRAW with UNIFEM "in pursuance of a stronger, more unified programme for the advancement of women could proceed, subject to the recommendations set out in paragraph 13 of the [task force] report, in particular the need for a proper analysis of the legal, financial and administrative implications of the merger, and subject to consideration by the General Assembly at its forty-eighth session".

72. In considering the proposal, it was essential to keep in view the overall objective to achieve a stronger and more unified programme for the advancement of women within the United Nations system and to make the most effective use of the resources available. Document A/48/591 outlined the administrative, financial and legal modalities to be used in implementing the merger, fully corresponding with the concerns raised by the task force in its report (E/1993/82, annex).

73. The arrangements proposed in A/48/591, paragraphs 8 (i) and (j), should lead to greater strategic coherence and better coordination in pursuit of their common goal of the advancement of women and in the preparations for the Fourth World Conference on Women and its follow-up, especially since the Division for the Advancement of Women had moved to New York and the Secretary-General for the Conference had transferred to the Department for Policy Coordination and Sustainable Development.

74. Document A/48/591 summarized the financial implications of the proposed merger for the budgets of the two organizations and indicated that the proposals could be accommodated within the resources available to INSTRAW and UNIFEM for the 1994-1995 biennium.

75. Under the proposed merger, the two organizations would be placed under the same management without losing their separate identities. As the task force had recommended, INSTRAW would continue to carry out independent research and training activities. After reviewing the mandates and objectives of both organizations, the task force had noted that they complemented each other and that a unified strategy would eliminate duplication, help strengthen the common programme and enhance fund-raising. Because of limited resources and staff, INSTRAW had found it difficult successfully to complete its research and training programmes. Moreover, its relative isolation had affected its long-term prospects for access to resources. The merger would provide it with

(Ms. Sadik)

better access to institutions and universities conducting research on women, thus facilitating its information collection and dissemination activities as well as networking initiatives; that should in turn enhance its fund-raising ability. The task force had been unanimous in its view that the Institute needed to establish more systematic links with mainstream institutions within and outside the United Nations system. UNIFEM, which was engaged mainly in operational activities, had also conducted pilot studies and surveys to meet operational research needs, and the merger might contribute significantly towards meeting those needs. UNIFEM training activities might also benefit from the developmental work done by INSTRAW.

76. The task force had placed special emphasis on the recognition that should be given to the Dominican Republic for hosting INSTRAW. In line with the recommendations of the task force, the Secretary-General had outlined in his report various options for maintaining a continued presence of both organizations in Santo Domingo. The proposals before the Third Committee, however, extended beyond the recommendation of the task force, since they envisaged the Santo Domingo facilities serving as a capacity-building centre for Latin America along the lines of the capacity-building activities currently being carried out in the Asian region. It was also reasonable to foresee that other United Nations entities would utilize the Santo Domingo facilities for their training activities.

77. Mrs. PAIK (Republic of Korea), referring to the proposed merger between INSTRAW and UNIFEM, said it should be borne in mind that the ultimate goal of restructuring was to strengthen the programmes for the advancement of women and to enhance the efficiency of the work of those organizations in function, structure and financial capability. Given that the INSTRAW research programme was closely linked to the operational activities of UNIFEM and the work of the Division for the Advancement of Women, close contacts among those organizations would help strengthen United Nations activities for the advancement of women by improving coordination among those bodies and enhancing their advocacy work.

78. With Economic and Social Council decision 1993/235 in mind, her delegation would like to make several comments on the report of the Secretary-General on the proposed merger (A/48/591). The Secretary-General was proposing that the mandates and programmes of both organizations should remain unchanged and that a common management system and more unified and more streamlined reporting arrangements should be established. In addition, the Consultative Committee of UNIFEM should exercise oversight for both INSTRAW and UNIFEM activities. Her delegation would appreciate more detailed information on each of those proposals.

79. The financial implications of the merger were another key consideration. Given that INSTRAW was wholly dependent upon voluntary contributions, the impact of relocation costs should be minimized. The report stated that after the one-time expense of $300,000 for transitional measures, the merger would result in savings of approximately $600,000 in operational costs. None the less, her delegation still had some concerns that the expected increase in basic management costs, including higher salaries and rent, might actually reduce the

(Mrs. Paik, Republic of Korea)

availability of resources available to INSTRAW for implementing its programmes. It would therefore appreciate additional information from the Secretariat on that point. The report stated that the INSTRAW Trust Fund and the United Nations Development Fund for Women would continue to be maintained separately. Her delegation would like further elaboration on that matter, with particular reference to the utilization and possibility of transfers between the two funds.

80. Her delegation noted with concern the difficulties of relocation, as well as the possibilities of unemployment that the proposed merger would bring to the INSTRAW staff. It also believed that the ongoing dedicated support of the Government of the Dominican Republic should be recognized. It therefore shared the Secretary-General's view that there should a be continuing presence of UNIFEM/INSTRAW in Santo Domingo, to be supplemented by related measures which would further strengthen such presence.

81. As UNIFEM and INSTRAW were two important bodies for dealing with women's issues, the efficiency of their work should not be hampered by delays in the Third Committee's decision on the proposed merger or by a lengthy transition and restructuring period if the merger took place. The Committee should therefore reach a decision as early as possible, so that the preparatory work for the Fourth World Conference on Women would not be adversely affected. That did not mean that the matter should not receive due consideration. Since the Member States had not had sufficient time to analyse the issue owing to the late submission of the Secretary-General's report (A/48/591), the Republic of Korea hoped that a briefing session could be arranged to give the Committee the facts and enable it to arrive at a decision by consensus.

82. Mrs. HORIUCHI (Japan) said that the Government of Japan fully recognized the importance of the activities of UNIFEM and INSTRAW, which it had long supported, and stressed that the two organizations would never have been as successful as they had been without the support of Member States, especially the countries in which their headquarters and regional offices were located. The proposed merger of the two organizations was naturally a matter of great interest to her delegation.

83. However, the report of the Secretary-General (A/48/591) failed to address fully the legal and procedural aspects of the proposed merger. There was a limited account of the analysis of the impact of the proposed merger on the statutory provisions relating to UNIFEM and INSTRAW. It was unclear whether the General Assembly would be required to formulate new provisions to bring the proposed new UNIFEM/INSTRAW into existence. The financial implications of the proposed merger also needed further elaboration.

84. Regarding administrative and other arrangements, her delegation felt that the information provided was too general. It would therefore be grateful if the Secretariat would elaborate on the arrangements, regulations, rules and operational procedures referred to, in order to facilitate the Committee's deliberations on the subject. Her delegation believed that it was imperative not to disrupt the implementation of the programmes of UNIFEM and INSTRAW in the process of the merger, to enable the two organizations to continue contributing

(Mrs. Horiuchi, Japan)

to the preparations for the World Conference on Women to be held in 1995. Since the proposed merger, which would cause fundamental structural changes in both organizations, was bound to affect programme activities, its timing was important. It was, in any event, a matter that called for careful deliberation and extensive discussion, which in turn required scrutiny of all the information available on the legal, administrative and financial implications of the proposed merger. While her Government supported the Secretary-General's efforts to rationalize and restructure the work of the United Nations in the economic and social fields, it felt that any decision concerning the merger should be taken by consensus.

85. Mrs. ALVAREZ (Dominican Republic) recalled that the Dominican Republic had been chosen by the General Assembly to be the host country for INSTRAW, conceived during the World Conference of the International Women's Year held in Mexico City in 1975. Her Government, which had an exemplary record of advocating human rights, had done everything possible, despite meagre resources, to embellish and maintain the only headquarters of an autonomous international organization in the Caribbean and Latin American region. In May 1993, the Secretary-General had established a task force to consider the administrative, financial and legal implications of the proposal to merge INSTRAW with UNIFEM. It should be pointed out that the task force had in two days produced a report (E/1993/82, annex) that contained a series of reservations. The report had been made with no input from her Government and it had never been officially conveyed to it. The report had subsequently been reviewed by the Economic and Social Council in July 1993. On 5 October 1993, the Dominican Mission had received an official notification referring to the merger of UNIFEM and INSTRAW as a fait accompli, as was the case also in the Secretary-General's report on the work of the Organization (A/48/1), even though the matter had not yet been brought to the attention of the Third Committee.

86. Her Government supported the Secretary-General's efforts to streamline the structure and work of the Organization and make it more efficient. Although there was a general will to revitalize the United Nations on the eve of the twenty-first century, that objective could and should be achieved only through the fullest and most transparent consultations guided by the decisions taken by Member States. Streamlining and restructuring were not ends in themselves but means to achieve agreed goals. Her delegation believed that the proposed merger of INSTRAW and UNIFEM might prove to be an excellent idea and that one should perhaps even envisage the integration of the Division for the Advancement of Women, the Commission on the Status of Women, the Committee on the Elimination of Discrimination against Women and the women's components of other United Nations agencies. It asked none the less that the time should be taken to analyse and compare all possible options, and that other United Nations bodies and agencies should be brought into the decision-making process. The results of the consultations could then be submitted to the Commission on the Status of Women at its forty-ninth session and, if the Commission saw fit, to the Fourth World Conference on Women to be held in 1995.

87. In her delegation's view, neither the report of the Secretary-General on the proposal for the merger of INSTRAW with UNIFEM (A/48/591) nor the note

(Mrs. Alvarez, Dominican Republic)

issued by the Secretariat (A/C.3/48/10) in response to the position paper submitted by her Government (A/C.3/48/6) had answered the questions the Dominican Republic had raised. Moreover, the Secretariat had refused to include as an annex to the Dominican position paper the memorandum sent by the Director of UNIFEM to all UNDP representatives in the field, which was referred to in paragraph 18 of the paper, on the grounds that it was an internal memorandum. Her delegation saw in that a justification for the concern expressed by the Ministers for Foreign Affairs of the Group of 77 over extending the political scope of the duties of the United Nations resident coordinators. The Committee could not take a decision without having considered the matter in detail and in depth, in accordance with Economic and Social Council decision 1993/235.

88. Mrs. CASTRO de BARISH (Costa Rica) stressed the importance of the preparations for the Fourth World Conference on Women, which would be the occasion to review the real situation of women and consider ways of expanding their role in society. The rights of women were an integral part of the human rights set out in the Universal Declaration of Human Rights and the Convention on the Elimination of All Forms of Discrimination against Women. To go beyond the progress made at the Vienna Conference, the question of the advancement of women had to be included in the programme of the 1994 World Conference on Population and Development and the 1995 World Summit for Social Development, in the context of the forthcoming Fourth World Conference on Women. Her delegation, like the Secretary-General of the World Conference on Women, believed that the Conference would produce a platform of action with a view to achieving the agreed goals: equality, development and peace.

89. Her delegation had had little time to review the documents on the proposal to merge UNIFEM with INSTRAW (A/48/591 and A/C.3/48/6 and 10). It drew attention to paragraph 10 of the letter dated 11 October 1993 from the Minister of Foreign Relations of the Dominican Republic addressed to the Secretary-General (A/C.3/48/6) citing the decision adopted on 27 July 1993 by the Social Committee of the Economic and Social Council. Paragraph 13 of the same document stated that the Council had exercised much caution when it had adopted its decision and that it had "wanted to avoid any precipitation or premature decisions". Although her delegation had not had the time to study the recommendations of the task force carefully, it would like to know how it would be possible to cut the staff of INSTRAW by more than half while at the same time expanding the Institute's research and training activities. It believed, like the Japanese delegation, that more information was needed on the legal, administrative and financial implications of the proposal for the merger. A decision on the proposal and on the transfer of INSTRAW to New York should not be taken hastily. Since INSTRAW had been established at the initiative of the World Conference of the International Women's Year held in Mexico City, it would be logical to have the question considered during the World Conference on Women to be held in Beijing in 1995. As the representative of the Dominican Republic had proposed, another solution would be to have the Commission on the Status of Women make a recommendation to that effect in 1994 to the Economic and Social Council, which would thus be in a position to present a specific position to the forty-ninth session of the General Assembly.

90. Mr. MORAN (Canada) said that his delegation continued to support the proposal for the merger of the two organizations, since it was convinced that it would lead to a particularly effective mechanism in the area of the advancement of women. Yet the proposal prompted three concerns. First, the administrative savings made ought to be used to finance substantive activities. The reorganization and streamlining of the system should not be invoked, in fact, as a pretext for reducing the resources allocated to the advancement of women. Secondly, the Secretariat must quickly provide the information requested of it by various delegations. Thirdly, a decision had to be taken on the proposal without delay if the new mechanism was to contribute to the preparatory activities for the World Conference on Women.

91. Mrs. MBELLA NGOMBA (Cameroon) said that since her country had presided over the INSTRAW Board of Trustees, it was particularly interested in the proposed merger. It was convinced that a decision of that magnitude should be taken only after careful study of all the legal, administrative and financial implications, with full knowledge of the facts. Cameroon appreciated the general administrative information the task force had provided, but believed that the General Assembly could not take a considered decision on the basis of the task force's report alone; it should also have a report from the Advisory Committee on Administrative and Budgetary Questions (ACABQ), whose role in the matter had been indicated by the Secretary-General in his report (A/48/591, para. 8 (j) (ii)). The Committee must therefore await that ACABQ report, unless the Secretary-General asked the Advisory Committee to submit a report to the current session so that the Committee could make a recommendation to the General Assembly with all the facts at hand.

AGENDA ITEM 110: CRIME PREVENTION AND CRIMINAL JUSTICE (continued)
(A/C.3/48/L.9/Rev.2)

Draft resolution A/C.3/48/L.9/Rev.2

92. Mr. KUEHL (United States of America) introduced, on behalf of the sponsors, draft resolution A/C.3/48/L.9/Rev.2, which was the result of intensive consultations and would therefore, he hoped, be adopted by consensus. A new preambular paragraph had been added (the fourth); in the tenth preambular paragraph (old ninth preambular paragraph) the word "all" had been added before the word "States"; and the last preambular paragraph had been expanded. In the operative part, paragraphs 5, 8, 9 and 14 had been revised and a new paragraph had been inserted (para. 7).

The meeting rose at 1.20 p.m.